

The complaint

Mr and Mrs S complain that U K Insurance Limited (UKI) declined their travel insurance claim. My references to UKI include its claim handling agent.

What happened

Mr and Mrs S have travel insurance through a bank account, the insurer is UKI. They had been due to fly from a European country to the UK, via Munich. On reaching Munich their 9pm connecting flight to the UK was cancelled as they started boarding. So the airline rebooked them on a flight from Munich to Frankfurt where the plan had been to stay overnight and catch a flight to the UK at 8am the next morning. Mr and Mrs S boarded the Munich to Frankfurt flight which left the boarding gate but had to return from the runway to the gate due to severe weather. All passengers were disembarked into a now closed airport. The airline offered Mr and Mrs S alternative flights in two to three days' time.

Rather than having to stay in Germany for a few days Mr and Mrs S made their own way to the UK. They took a taxi from the airport to the coach station and a coach from Munich to the UK where due to train strikes they had to hire a car to get home. They claimed on the policy under the missed departure section for their additional travel costs of about £450.

UKI said the claim wasn't covered as the policy excluded a claim where the flight was cancelled by the operator.

Mr and Mrs S complained to us. They said UKI had looked at the wrong flight when it declined the claim, they weren't claiming for the cancelled Munich to Frankfurt flight. They were claiming for the missed flight from Frankfurt to the UK (which to their knowledge hadn't been cancelled) which they'd missed due to the Munich to Frankfurt flight not running to timetable. They said those circumstances were covered by the policy terms. They want UKI to pay the costs they incurred to return home from Munich.

One of our Investigators considered the complaint and said UKI had fairly relied on the exclusion to decline the claim. Mr and Mrs S disagreed, they said the exclusion is written as a singular so can't be an exclusion that applies to the missed flight as well as the cancelled flight.

Another of our Investigators considered the complaint and also said UKI had reasonably relied on the exclusion to decline the claim as UKI could apply the exclusion to any flight that formed part of the claim.

As agreement couldn't be reached the complaint was passed to me to decide.

What I provisionally decided – and why

I made a provisional decision that I was intending to uphold the complaint. I said:

'UKI has a responsibility to handle claims promptly and fairly. And it shouldn't reject a claim unreasonably.'

The policy terms and conditions say:

‘Section B – Delayed or missed departure (on the day you are travelling)

What is covered...

1. *Missed International Departure (outbound or on your return) We will cover you for reasonable additional accommodation and travel expenses to get you to:*
 - *your trip destination on your outward journey; or*
 - *return you to your home on your return journey if you fail to arrive at your point of international departure in time to board your pre-booked aircraft...as a result of:*
 - *the scheduled public transport or connecting scheduled flight on which you are travelling to your point of international departure not running to timetable;*

...

2. *Delayed International Departure (outbound or on your return)*

We will cover you for your additional accommodation, travel and refreshment costs if you have checked in and your pre-booked aircraft, ship or train is delayed by more than four hours beyond the time shown on your travel itinerary at the point of international departure

...

What is not covered

We will not cover...

any claim where the aircraft, ship or train on which you are booked to travel is cancelled by the operator’.

UKI declined the claim as Mr and Mrs S’ flight from Munich to the UK was cancelled and then the flight from Munich to Frankfurt was cancelled. The policy excludes a claim where the flight is cancelled by the operator so UKI correctly declined the claim for those flights under its policy terms.

Mr and Mrs S say they aren’t claiming for the cancelled flights, their claim is for the missed flight from Frankfurt to the UK. I think UKI could still decline the claim for the missed flight under a strict interpretation of the policy terms because the cause of the missed flight stemmed from the cancellation of the Munich to UK flight and subsequent cancellation of the Munich to Frankfurt flight. The policy wording is that the exclusion applies to *‘any claim’* where the flight was cancelled and Mr and Mrs S’ claim arose as the cancelled flights caused them to miss the Frankfurt to UK flight.

However, I also have to consider what’s fair and reasonable in these circumstances. As Mr and Mrs S had checked in on the Munich to UK flight and Munich to Frankfurt flight I think it’s fair and reasonable for their claim to be considered under the ‘delayed departure’ section of the policy (section B2 above). That’s because the impact on Mr and Mrs S was the same whether those flights were delayed or cancelled.

For the delayed departure section to apply the flight/s Mr and Mrs S had checked in on must have been delayed *‘by more than four hours beyond the time shown on their travel itinerary at the point of international departure’.*

Mr and Mrs S' Munich to UK flight had been due to depart at 9pm, was cancelled and the rearranged flight to the UK via Frankfurt was the next day. So for the Munich to UK flight Mr and Mrs S were delayed by more than the four hours required by the policy terms.

The Munich to Frankfurt flight, which was to be part of Mr and Mrs S alternative flight to the UK, was cancelled. Mr and Mrs S say the airline told them the next flight would be in two to three days, so more than the required four hours for the delayed departure policy terms to take effect.

I think the fair and reasonable outcome of this complaint is for UKI to reassess the claim under the delayed departure policy terms which provides cover for '*your additional accommodation, travel and refreshment costs*'. The policy limit under that section is £250 per person with no excess payable.

I note that under the delayed or missed departure section the policy excludes:

'any expenses that you can recover from elsewhere, such as compensation, assistance or refund that should be provided by your operator or travel agent. If you should be entitled to such compensation we will not pay any claim unless you provide evidence from them showing why such compensation was not given to you'.

Given the circumstances of this case it may well be that Mr and Mrs S wouldn't be successful in claiming compensation from the airline through the relevant law and regulations. The Civil Aviation Authority's (CAA) website details those provisions and says that for cancelled flights an airline can provide accommodation, if a consumer is re-routed the next day, which is what the airline arranged for Mr and Mrs S for the plan to fly to Frankfurt. The CAA's website also says that compensation isn't payable for cancellation/delays due to 'extreme weather' which was the cause of the Munich to Frankfurt cancelled flight.

However, the delayed departure section of this policy indemnifies a consumer's financial loss instead of just giving a fixed benefit based on the hours a consumer is delayed. So I think it would be reasonable for UKI to ask Mr and Mrs S to provide evidence that they weren't given compensation by the airline. Mr and Mrs S need to show UKI that they hadn't been able to recover the costs they claimed for on the travel insurance policy from the airline operator'.

Responses to my provisional decision

Mr and Mrs S didn't respond.

UKI didn't accept my provisional decision. In summary it said:

- I'd accepted that UKI's decision to decline the claim was correct under the policy terms which excluded cover for cancelled flights.
- It appreciated this service is able to step outside the policy terms and apply a fair and reasonable approach. But it had the right to underwrite the risks it wanted to and the exclusion was clear that it hadn't accepted to insure claims due to cancelled flights.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and

reasonable in the circumstances of this complaint.

UKI's response to my provisional decision hasn't changed my mind about what's a fair and reasonable outcome to this complaint. As UKI says, it can choose the risks it wants to insure and the policy says that it won't cover claims where a flight on which Mr and Mrs S were booked to travel was cancelled by the airline. I've acknowledged in my provisional decision that as the cause of Mr and Mrs S' claim stemmed from the cancellation of their Munich to UK flight and subsequent cancellation of their Munich to Frankfurt flight the claim isn't covered by the policy terms.

But even though UKI could decline the claim under the strict interpretation of the policy terms, I must still consider whether its decision to decline the claim was fair and reasonable in the specific circumstances of the claim.

In this case the difference between the claim potentially being covered under the delayed departure section of the policy, or the claim falling within the exclusion for cancelled flights, only depends on how the airline labelled the flights that didn't depart on time. Mr and Mrs S had checked in for each of the flights, as required under the delayed departure section. If the flights had been labelled by the airline as being delayed, as both the Munich to UK flight and then the alternative Munich to Frankfurt flight were delayed by more than four hours, the claim would be assessed under the delayed departure section of the policy.

Whether the flights were labelled by the airline as delayed or cancelled the impact on Mr and Mrs S was the same. In these circumstances I don't think it's fair and reasonable for UKI to rely on the policy exclusion for cancelled flights to decline the claim.

For the reasons I've given in my provisional findings and these findings I uphold the complaint and require UKI to put things right as I've set out below.

I explained in my provisional findings that as the delayed departure section of this policy indemnifies a consumer's financial loss it would be reasonable for UKI to ask Mr and Mrs S to provide evidence that they weren't given compensation by the airline. Neither party have given me evidence to change my mind about that, so as part of UKI's reassessment of the claim Mr and Mrs S will need to show UKI that they hadn't been able to recover the costs they claimed for on the travel insurance policy from the airline operator.

Putting things right

UKI must reassess Mr and Mrs S' claim under the delayed departure section of the policy in line with the remaining policy terms.

My final decision

I uphold this complaint and require U K Insurance Limited to reassess Mr and Mrs S' claim under the delayed departure section of the policy in line with the remaining policy terms.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 10 June 2024.

Nicola Sisk
Ombudsman